DOCUMENT RESUME

ED 231 262 HE 016 245

AUTHOR Barger, Robert N.; Barger, Josephine C.
TITLE A Workable Strategy for Affirmative Action.
PUB DATE 14 Apr 83
NOTE 11p.; Paper presented at the National Conference on Blacks in Higher Education (8th, Washington, DC, April 14, 1983).
PUB TYPE Speeches/Conference Papers (150) -- Viewpoints (120)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS *Access to Education; *Affirmative Action; Compliance (Legal); Declining Enrollment; Equal Education; Ethics; Legal Responsibility; *Minority Groups; *Postsecondary Education; *Student Recruitment

ABSTRACT

The kinds of affirmative action programs that are likely to be successful within postsecondary education are identified. Affirmative action is designed to increase minority access, survival, and upward mobility within the institution. The following arguments are proposed: (1) ethical and legal strategies are insufficient to accomplish the aim of an affirmative action program, and (2) a pragmatic strategy, which appeals to the interests of both the majority and minority, is necessary for the success of an affirmative action program. The following principles of philosophical ethics, which are open to conflicting interpretations, are briefly explained: compensatory justice, distributive justice, and formal equality. There are problems with basing affirmative action on grounds of legality, since the legal grounds may shift, and the reporting of results is often based on "good faith" effort, rather than a showing of substantial results. The pragmatic approach is based on utility, measured in terms of results or consequences. It is suggested that future demographic changes in postsecondary education will likely result in a buyer's market for minority students. Therefore, it is in the self-interest of colleges to recruit and retain minority students, and to increase the number of minority staff. (SW)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED231262

A Workable Strategy for Affirmative Action

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

Robert N. Barger

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

U.S. DEPARTMENT OF EDUCATION
NATIONAL INSTITUTE OF EDUCATION
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

This document has been reproduced as received from the person or organization originating it.

Minor changes have been made to improve reproduction quality.

Points of view or opinions stated in this document do not necessarily represent official NIE position or policy.

A Paper Presented At The

Eighth National Conference

On

Blacks in Higher Education

Washington, D. C.

April 14, 1983

Robert N. and Josephine C. Barger
Eastern Illinois University
Charleston, Illinois 61920

HE 016 245

This paper identifies the kind of affirmative action program that has the best chance of working in the area of postsecondary education. The principles involved in the paper can be generalized to apply to any area, however. The meaning of "affirmative action program" as used in this paper is any institutional program which has the aim of increasing minority access, survival and upward mobility within the institution. The two theses which will be presented in the paper are: 1) ethical and legal strategies are insufficient to accomplish the aim of an affirmative action program, and 2) a pragmatic strategy, which appeals to the interests of the majority as well as to the interests of the minority, is necessary for the success of an affirmative action program.

Ethical Strategy

There is a principle in philosophical ethics called the principle of compensatory justice. This principle dictates that an equitable compensation is owed parties who have suffered injury in the past. According to this principle, a case could be made, on one side, that since black people have been victimized for three hundred and fifty years in America by slavery and institutional racism, they should be entitled to the benefits of affirmative action on the basis of compensatory justice. On the other side, however, a case could be made that the present rights of the white majority may not be violated in order to redress past injustice, since

it was not the members of the present majority who caused the injustice.

There is another principle in ethics called the principle of distributive justice. This principle states that the distribution of goods or opportunities in society should take place in a way that tends to eliminate present inequities. According to this principle, a case could be made, on the one side, that affirmative action would provide a mechanism for the more equitable distribution of opportunity in society. On the other side, the case could be made that such a mechanism, based as it is simply on a racial classification, is completely irrelevant. That is, the sole fact of what race a person belongs to should never be a relevant consideration in employment matters, even if that consideration is supposedly "benign."

Finally, there is an ethical principle called formal equality. This principle states that equals should be treated equally and unequals should be treated unequally. According to this principle, a case could be made, on one side, that a neutral, non-preferential opportunity program would be equitable only if everyone were in a relatively similar situation, but since everyone is not so situated, affirmative action is justified. On the other side, a case could be made that, granted that everyone is not similarly situated, the way to remedy this is to focus on the needs of individuals rather than to structure programs for whole racial groups.

As can be seen, the principles of philosophical ethics are open to conflicting interpretations. Thus, the choice of an

ethical basis as the strategy for an affirmative action program is not likely to attract the kind of broad-based concensus which is needed to support such a program, since the question of whether this is the "right" thing to do will be perennially controversial.

Legal Strategy

Legality can be thought of as adherence to law, with law being defined as a rule of conduct set up by community authority.

Perhaps the chief merit of legality as a strategic basis for affirmative action is that it emphasizes that affirmative action is the official policy of the nation. It also puts the power of federal enforcement behind this policy. A number of empirical studies have shown, however, that government regulation of affirmative action programs in the field of postsecondary education has been less than successful.[1] One problem of government-regulated affirmative action programs is that these programs utilize a simplistic systems-analysis approach. They mandate that a work force analysis be made periodically and that goals and timetables be established. A great deal of record-keeping is necessitated, but only a "good faith" effort is required rather than a showing of substantial results.

Another problem of basing a strategy for affirmative action on grounds of legality is that these grounds are liable to shift. Consider that it was less than one hundred and fifty years ago that Chief Justice Roger Brooke Taney wrote in Dred Scott v. Sandford [sic] (1857) that black people, whether

slave or free, were so far inferior to whites that they had no rights which whites were bound to respect.[2] It was less than one hundred years ago - and after the Fourteenth Amendment was passed - that the Supreme Court stated in its decision in Plessy v. Ferguson (1896):

> We consider the underlying fallacy of the plaintiff's argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction on it.....Legislation is powerless to eradicate racial instincts or to abolish distinctions based upon physical differences, and the attempt to do so can only result in accentuating the difficulties of the present situation.[3]

While it is doubtful that our law will again revert to such racist interpretations, it is well to remember that law is not immutable. In the 1960s and 70s affirmative action was aggressively pursued by the government. More recently, however, legal support for this policy has weakened. This can be clearly seen in the judicial area in the relatively conservative decision of the Supreme Court in the Bakke case.[4] In this case, the Court held that race may be one of a number of factors in an admissions decision, but it may not be the controlling factor. It can also be clearly seen in the executive area in the Reagan administration's policy of eliminating anything connected with affirmative action which is interpreted as involving "quotas."

The more basic difficulty with law as a strategic basis is that it is simply not able to serve as a sufficient rationale, in itself, for a social policy like affirmative action. Law is meant to serve as a codification and basis for adjudication of policy which is already valued for some reason. John Dewey affirmed this point in 1897, saying that "All reforms which rest simply upon the enactment of law, or the threatening of certain penalties, or upon changes in mechanical or outward arrangements, are transitory and futile."[5] Ludwig Wittgenstein, also, has said: "There must indeed be some kind of ethical reward and ethical punishment, but they must reside in the action itself."[6] In other words, affirmative action cannot effectively be based on external incentives (e.g., getting or keeping government contracts) or on fear (e.g., avoidance of court suits), but rather on the understanding that affirmative action is to the benefit of the postsecondary institution itself as well as to the benefit of all of the individuals associated with the institution.

Pragmatic Considerations

The pragmatic approach is one based on utility, measured in terms of results or consequences. Pragmatism thus focuses on the effectiveness of a program or policy as a means to an end, rather than on the intrinsic qualities of the program or policy itself. This basis for affirmative action cannot be critiqued in an abstract fashion apart from some specified end for which it serves as a means, for, in the pragmatic perspective, the means must always be justified by the end. Therefore, the following scenario is offered as one tactic to

illustrate how affirmative action might be motivated by a pragmatic strategy.

It is generally acknowledged that most postsecondary institutions will face the possibility of a serious decline in enrollment in the next two decades. Indeed, the American Association of Collegiate Registrars and Admissions Officers and the College Entrance Examination Board have reported that postsecondary education is already a buyer's market.[7] Not so widely recognized is the fact that, when the demographic changes which are now climbing the educational ladder reach the postsecondary rung, some significant changes may occur in the composition of the postsecondary population. Kerr has forecasted that, "it is quite possible that a greater proportion of minority group members will, in the near future, attend college than of the white majority."[8] This forecast is supported by a Carnegie Council on Policy Studies in Higher Education report. The report, after affirming that "under the conditions of the next two decades, consumer sovereignty may well prevail largely undisputed in most institutions," goes on to predict that more white women, more blacks and more Hispanics will be attending college, despite a general decline in enrollment.[9] Speaking of blacks in particular, the report states:

> We expect that their attendance rates will equal those of whites. They already exceed those for whites within the same income ranges. We expect attendance rates for blacks in the top half of the overall income range to exceed those for whites in the top half of the overall income range, but we expect attendance

> rates for blacks in the bottom half of the overal' income range to remain below those for whites in that half of the overall income range. Some parts of the black community are moving ahead faster than others. Blacks, also, are becoming a higher proportion of all youths.[10]

Given these demographic changes, it seems probable that postsecondary education will become a buyer's market for minority students. In this event, postsecondary institutions will most likely become more concerned with minority student recruitment and minority student retention since these factors will become important in maintaining enrollment as the volume of the traditional majority clientele begins to decline. In other words, pragmatic considerations will naturally incline postsecondary institutions to recruit and retain minority students. But in order to recruit and retain minority students in the time of a buyer's market, postsecondary institutions will have to address the problems of making themselves more socially, culturally, economically and politically attractive to minority students. One element involved in these problems is the small percentage of minority staff presently employed in most postsecondary institutions. Without more representative numbers of minorities on institutional staffs, a number of difficulties may well ensue:

1) minority students will suffer from lack of role models; 2) counseling for minority students by sympathetic minority faculty will be more difficult to find; 3) the correcting of prejudicial stereotypes about minorities will be hampered;

4) opportunities for the growth of minority students' self-respect will be diminished; 5) the promotion of intercultural and interracial understanding and cooperation will be inhibited; 6) teaching and research concerns which might benefit from a minority perspective will be less adequately pursued; 7) the provision of a source for future minority faculty will be endangered; 8) postsecondary institutions will be seen as hypocritical in that they will not appear to pursue the spirit of the affirmative action policy which they proclaim; and 9) other social, economic and political considerations of a longer range, less specific, less predictable, but none the less real character, will be affected.

To avoid these difficulties, an appeal might be made to institutional and individual self-interest in order to motivate affirmative action and increase the number of minority staff. Majority faculty and administrators, who might otherwise regard affirmative action programs as improper intervention in the traditional process of autonomous peer selection, might be led to understand that if more minorities are not appointed and if the attendant difficulties described above occur, then growth and even survival of some postsecondary units or programs in an institution - and consequently, continued employment of the present majority personnel within those units or programs - will be threatened because of loss of minority enrollment. Where ethical or legal reasons may not provide sufficient motivation to increase minority staff, these pragmatic considerations, based on the awareness that what is in the minority interest is also in the interest of institutional stability and eventually

in the interest of the majority individual's job security, may provide such motivation. It should be noted that these considerations are not entirely of the extrinsic incentive variety. They stress, instead, the realization that the interests of the majority and the minority are confluent.

It is not suggested here that moral or legal motivations should be abandoned, however. Such motivations are necessary, but they are not sufficient.

It may be that the particular pragmatic tactic offered by way of example in the above scenario will not prove convincing. However, the scenario is meant simply to illustrate the kind of pragmatic strategy which may have the best chance of underpinning an effective affirmative action effort. It may be that other pragmatic tactics would prove more convincing, e.g., the avoidance of violence which could result if the oppressive non-pluralistic structuring of society is not changed. The effectiveness of the strategy is what the writers seek to emphasize, not the tactics.

The principle disadvantage of pragmatism as a strategy for affirmative action is that it is two-edged. If it should appear at some time to the majority that increasing the number of minority staff and students is not in the majority's best interest, then the efficiency of this strategy would be lost. To prevent this, an awareness might be developed that what is in the minority's interest is eventually in the majority's interest, e.g., that increasing the number of minority students and minority staff is good for everybody in postsecondary education - minority and majority alike.

Conclusion

Historically, no significant majority has ever yielded ground to a minority unless it was perceived to be in the majority's own best interest to do so. This is to say that no matter how moral people's rhetoric might be, no matter how law-abiding they might believe that their tradition is, when it comes to the point of action, most people will respond in a self-interested manner. Therefore, unless a pragmatic strategy for affirmative action is adopted, the status quo will probably not change.

[1]E. Adams and R. Jones, "Scaling the Ivory Tower in Spite of Affirmative Action Guidelines" (Paper presented at the annual meeting of the American Educational Research Association, Boston, 1980), ERIC Document Reproduction Service No. ED 185 213; D. Bell, B. Waren and C. Yergler, Development of Positive Affirmative Action Programs at All Levels of Higher Education Employment, Development of Programs to Increase Minority and Women Student Enrollment: Report of the Master Plan Committee on Affirmative Action for the Illinois Board of Higher Education (Springfield, IL: Illinois Board of Higher Education, 1975); N. Benokraitis and J. Feagin, Affirmative Action and Equal Opportunity: Action, Inaction, Reaction (Boulder, CO - Westview Press, 1978); J. Loeb, M. Ferber and H. Lowry, "The Effectiveness of Affirmative Action for Women," Journal of Higher Education, Vol. 49 (1978), pp. 218-30; C. Steele and S. Green, "Affirmative Action and Academic Hiring: A Case Study of a Value Conflict," Journal of Higher Education, Vol. 47 (1976), pp. 413-35.

[2]Dred Scott v. Sandford [sic], 1857, 19 Howard 393.

[3]Plessy v. Ferguson, in Foundations of Education in America: An Anthology of Major Thoughts and Significant Actions, ed. J. Noll and S. Kelly (New York: Harper and Row 1970), pp. 270-71

[4]Regents of the University of California v. Bakke, 1978, 438 US 265.

[5]John Dewey, in Noll and Kelly, op.cit., p. 242.

[6]Ludwig Wittgenstein, Tractatus Logico - Philosophicus (London: Kegan Paul, 1922), no. 6.422.

[7]American Association of Collegiate Registrars and the College Entrance Examination Board, Undergraduate Admissions: The Realities of Institutional Policies, Practices and Procedures (New York: College Entrance Examination Board, 1980.

[8]Clark Kerr, "The Future of Higher Education Today," Howard University Institute for the Study of Educational Policy (ISEP) Monitor, Vol. 2 (1978), pp. 1-3.

[9]Carnegie Council on Policy Studies in Higher Education, Three Thousand Futures: The Next Twenty Years for Higher Education (San Francisco: Jossey-Bass, 1980), p. 29.

[10]Ibid., pp. 42-43.